

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

EDUARDO LOPEZ & FRANCISCO
J. FLORES,

1:11-CV-3096-PA (Lead case)
1:11-CV-3136-PA

Plaintiffs,

v.

ORDER

JUAN FLORES, individually, and
GREGORIO RODRIGUEZ and JUAN
FLORES, doing business as SI
CASA FLORES MEXICAN CUISINE,
and G.M.R., INC., an Oregon
Corporation,

Defendants.

PANNER, District Judge:

Magistrate Judge Mark D. Clarke issued a Report and Recommendation (#91), recommending the Court grant the motion the potential tainting of the jury pool. Following a hearing, and over plaintiffs' counsel Bob Robertson's objections, I adopted the Report in full in a written order (#101). I noted Robertson is

liable for any fees incurred by defense counsel resulting from Robertson's inappropriate actions (#101). I invited defense counsel to submit a bill of fees and costs.

Defense counsel seeks \$4,958.50. Although Robertson earlier objected to any imposition of sanctions, Robertson did not object to any of the hours or fees requested in defense counsels' fee petition. Nevertheless, I have thoroughly reviewed the fee petition. Defense counsel seeks fees for 26.3 hours of work. This includes time spent: preparing and drafting the motion and reply; responding to Robertson's objections to Judge Clarke's Report; attending an in-person hearing on the motion; and working on the fee petition. I note Robertson's strenuous objections, covered in detail in my prior order, significantly drove up the time defense counsel spent on the motion. I conclude that under the circumstances, 26.3 hours incurred by defense counsel is reasonable.

Additionally, I conclude the hourly fees sought are reasonable. Eric Mitton seeks his regular hourly rate of \$185 per hour and Charles Bolen seeks his regular hourly rate of \$200 per hour. As noted, Robertson did not object to the hourly rate sought. I conclude the hourly rates are reasonable. As outlined in the recently released Oregon State Bar 2012 Economic Survey, the hourly rates sought fall right at the median hourly billing rate charged by Southern Oregon private attorneys. I conclude the hourly rates are reasonable.

CONCLUSION

Defense counsel is entitled to recover \$4,958.50 in fees incurred from the actions of Bob Robertson. The above amount is not a setoff from the currently pending request for fees in the related case of Esquivel v. Flores, et al. Rather, the above amount is due immediately, regardless of the outcome in the Esquivel request for fees. Bob Robertson is the paying party and the firm of Hornecker, Cowling, Hassen & Heysell, LLP is the party to be paid.

IT IS SO ORDERED.

DATED this 19 day of November, 2012.

A handwritten signature in black ink, appearing to read "Owen M. Panner", is written over a horizontal line.

OWEN M. PANNER
U.S. DISTRICT JUDGE